

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

ADAM MAZZARIELLO,

Defendant.

ORDER
13-CR-211-A

The defendant, Adam Mazzariello, has filed a *pro se* motion pursuant to Fed. R. Crim. P. 36 requesting the Court to correct a purported error in his sentence. For the reason stated below, the motion is denied.

Rule 36 “authorizes a court to correct only clerical errors in the transcription of judgments, not to effectuate its unexpressed intentions at the time of sentencing.” *United States v. Werber*, 51 F.3d 342, 343 (2d Cir. 1995); *United States v. Burd*, 86 F.3d 285, 288 (2d Cir. 1996) (“[A] clerical error must not be one of judgment or even of misidentification, but merely of recitation, of the sort that a clerk . . . might commit, mechanical in nature.”). By moving to be sentenced to serve his sentence in a halfway house or community confinement, Mazzariello moves to change his sentence, not to correct it. The Court lacks authority under Rule 36 to grant him the relief he seeks, and his motion is therefore denied.

IT IS SO ORDERED.

s/Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE

Dated: October 1, 2018